

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

)	Chapter 11
In re:)	
)	Case No. 00-1982 (GMS)
GST TELECOM INC., <u>et al.</u>,)	
)	Jointly Administered
Debtors.)	
)	
)	
<hr/>)	
GST TELECOM INC., <u>et al.</u>,)	
)	Civil Docket No. 04-CV-1380
Counterplaintiffs,)	
)	
v.)	
)	
JOHN WARTA,)	
)	
Counterdefendant.)	

**GST'S MOTION IN LIMINE REGARDING LATHAM & WATKINS CLIENT
REPRESENTATIONS**

GST Telecom Inc. and the other debtors and debtors-in-possession in the above-captioned cases (collectively, "GST"), by their attorneys, hereby submit this motion *in limine* for an order barring claimant John Warta from presenting any evidence or argument regarding client representations by GST's counsel, Latham & Watkins LLP. The fact that Latham & Watkins may have represented third parties to this action, at times and under circumstances unrelated to the facts here, is utterly irrelevant to any issue in this case. Any attempt by Warta to inject GST's counsel into this litigation would be a confusing distraction for the jury, and should not be allowed.

At a prior hearing in this matter, Warta's former counsel attempted to raise as an issue in discovery that attorneys for Latham & Watkins at some point in time had represented

PF.Net, Warta's business venture after his departure from GST. It was not clear what relevance Warta's counsel thought Latham & Watkins' supposed representation of PF.Net had at the time, but it is clear that any such representation has no relevance whatsoever to the issues that will be tried in this case.

PF.Net is not a party to this litigation, and has no interest in its outcome. PF.Net's former Chief Executive Officer, Kirby "Buddy" Pickle, was deposed and GST expects to present that deposition to establish that Warta's claim of damages related to his former involvement with PF.Net lacks merit. Mr. Pickle was not represented by Latham & Watkins, but had his own representation at the deposition. It is inconceivable that any past representation of PF.Net by Latham & Watkins could have any relevance to this litigation.

In addition to PF.Net, former counsel for Warta has attempted to elicit testimony during discovery regarding Latham & Watkins' representation of Qualcomm, Inc. Like PF.Net, Qualcomm is not a party to this litigation, and has no interest in its outcome. Stewart Douglas Hutcheson, of Leap Wireless International, a spin-off from Qualcomm, was deposed in this matter and testified regarding the negotiation of a potential purchase by Qualcomm of Warta's company, Magnacom. While this testimony will be offered into evidence in support of GST's counterclaim related to Warta's diversion of some \$14.4 million into Magnacom, as well as in support of GST's defense to Warta's claim for indemnification, the fact that Latham & Watkins represented Qualcomm at certain points in time is irrelevant to any issue in this litigation.

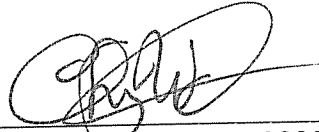
Latham & Watkins did not represent GST at the time that Qualcomm was negotiating with GST or Warta for the potential purchase of Magnacom. No Latham & Watkins attorney is a witness in this matter, or is expected to testify for any reason. Accordingly whatever Warta's prior counsel may have seen as the relevance of Latham & Watkins'

representation of either of these two companies during discovery, such representations are not relevant to the issues that are about to be tried to the jury.

To allow Warta to raise any issues with respect to Latham & Watkins in this trial would inject GST's counsel into the litigation inappropriately. Warta must not be allowed to thus mislead and confuse the jury through unsupported allegations and innuendo. Other than in its role as counsel for GST, Latham & Watkins has no role in this litigation, and Warta should not be allowed to pretend otherwise.

Wilmington, Delaware

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